

SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES

I.

Introduction

The State Personnel Board (Board) proposes to adopt section 25 (Section 25) of Title 2, Chapter 1, of the Code of Regulations (CCR), which clarifies that the merit principle applies to all appointments and promotions regardless of position budget allotments. The Board also proposes to adopt section 26 (Section 26) of Title 2, Chapter 1 of the CCR, concerning recordkeeping requirements for personnel-related documents. A public comment period on these regulations was held from February 5, 2015, through April 6, 2015. A public hearing was held on March 19, 2015. The Board did not receive any oral or written comments on Section 25. At the March 19 hearing, the Board received three oral comments on Section 26. The comments were taken under submission and considered. A summary of those comments and the Board's responses are below.

II.

Summary of Oral Comments from David Rose, Attorney, State Water Resources Control Board (SWRCB) at the March 19, 2015, Hearing

Comment 1:

The state's examination/employment application (STD. 678) includes an Equal Employment Opportunity (EEO) questionnaire asking applicants to voluntarily provide information about his/her age, gender, and race/ethnicity heritage. The questionnaire is separated from the application prior to the examination and is not used in any employment decisions. Subdivision (a)(1) of Section 26 refers to EEO records. SWRCB sought clarification as to whether Section 26 requires appointing powers to retain the EEO questionnaire.

Response 1:

The wording of section (a)(1) of Section 26 has been narrowed to make clear that appointing powers are not required to maintain the EEO questionnaire.

Comment 2:

SWRCB recommended that section (a)(2) of Section 26 be amended to exclude personnel documents when an employee leaves the employ of the appointing power,

because an employee's official personnel file (OPF) transfers with the employee whenever he or she transfers within state civil service.

Response 2:

In certain instances, like special investigations into alleged illegal appointments, it may be necessary for the Board to review personnel-related documents and transactions dating back beyond two years. Accordingly, the availability of documents under Section 26 will assist in the quality of the Board's compliance reviews. Increased retention of merit and personnel-related records may also provide critical evidence of compliance with or deficiencies in the hiring and selection practices of appointing powers.

However, to ensure that Section 26 is not overly broad or burdensome on appointing powers, the regulation has been reorganized and amended to make clear that employee personnel records such as Request for Personnel Action, Notice of Personnel Action, and probation reports and performance reviews are retained for a minimum of five years from the effective date of the employee's appointment.

Section 26 has been reorganized by changing subdivision (a)(2) to subsection (b) and (b)(1); and renumbering Section 26, subdivision (a)(3) to subdivision (a)(2), subdivision (a)(4) to subdivision (a)(3), subdivision (a)(5) to subdivision (a)(4), and subdivision (a)(6) to subdivision (a)(5). In addition, the requirement that records shall be kept in an orderly and systematic manner has been changed from Section 26, subdivision (a) to subdivision (c).

Comment 3:

SWRCB was concerned that as worded subdivision (b) of Section 26 might result in appointing powers keeping duplicate copies of the same records.

Response 3:

As discussed in Response 2, Section 26 has been reorganized and amended. Consequently, subdivision (b) has been changed to subdivision (d) and, in relevant part, amended to read, "Duplicate copies of the same record are not required to be retained."

III.

Conclusion

The Board appreciates the feedback it received regarding this proposed regulation. The modified text with the changes clearly indicated are available to the public as stated in the Notice of Modification to Text of Proposed Regulation.